



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.04.2022

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CrI.R.C(MD)No.481 of 2020

and

CrI.M.P(MD)No.4256 of 2020

WEB COPY

S.James Francis

... Revision Petitioner/Respondent

Vs.

1.Silvester Ramani

2.Minor.Kaviyasindhu

... Respondents/Petitioners

(R - 2 represented through her mother/
first respondent)

PRAYER: Criminal Revision Case filed under Section 397 read with Section 401 of the Code of Criminal Procedure, to call for the records pertaining to the order of the Family Court, Dindigul passed in M.C.No.39 of 2017, dated 14.07.2020 and set aside the same.

For Petitioner

: Mr.S.Sarvagan Prabhu

For Respondents

: Mr.V.Sakthivel

ORDER

This revision has been filed challenging the order passed in M.C.No.39 of 2017, dated 14.07.2020, by the Family Court, Dindigul, thereby ordered maintenance in favour of the second respondent alone.

2.The first respondent filed a petition before the Family Court, Dindigul in M.C.No.39 of 2017 claiming maintenance from the petitioner for the second respondent/minor daughter. The first respondent alleged that the petitioner treated them with cruelty and they were driven out from the matrimonial home. The petitioner neglected them from giving any maintenance though having sufficient means.

3.On the side of the respondents, the first respondent was examined as P.W.1 and marked Ex.P.1 to Ex.P.3 and on the side of the petitioner, he himself was examined as R.W.1 and marked Ex.R.1 to Ex.R.13.

4.On a perusal of oral and documentary evidence, the Court below ordered maintenance as against the second respondent and



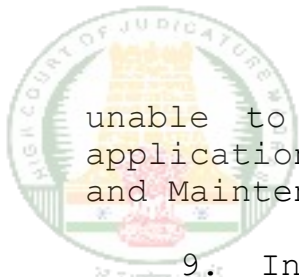
thereby awarded a sum of Rs.14,000/- payable by the petitioner as monthly maintenance.

5.Heard the learned counsel appearing for the petitioners and the learned counsel appearing for the respondents and perused the materials available on record.

6.On a perusal of the records revealed that the petitioner and the first respondent gave birth to one son and the second respondent. The son is living with the petitioner. The petitioner is working as a Block Development Officer and he is drawing reasonable salary per month. At the same time, the first respondent is also working as a Teacher and she is also drawing reasonable salary. Therefore, the first respondent filed a maintenance case only for the second respondent, since she is a minor. Now, she attained majority and the maintenance case was filed only under Section 125 of Cr.P.C. Therefore, till the attainment of majority, she is entitled for maintenance. After attainment of majority, she is not entitled for maintenance under Section 125 of Cr.P.C.

7.In this regard, it is relevant to cite the Judgment of the Honourable Supreme Court of India held in ***Crl.A.No.615 of 2020 in the case of Abilasha Vs. Parkash and others***, in which the Honourable Supreme Court of India held that the provision of Section 20 of the Hindu Adoptions and Maintenance Act, 1956 (hereinafter referred to as 'the Act, 1956) cast clear statutory obligation on a Hindu to maintain his unmarried daughter who is unable to maintain herself. The right of unmarried daughter under Section 20 of the Act, 1956 to claim maintenance from her father when she is unable to maintain herself is absolute and the right given to unmarried daughter under Section 20 of the Act, 1956 is right granted under personal law, which can very well be enforced by her against her father. The purpose and object of Section 125 of Cr.P.C. is to provide immediate relief to applicant in a summary proceedings, whereas right under Section 20 read with Section 3(b) of the Act, 1956 Act, 1956 contains larger right, which needs determination by a Civil Court, hence for the larger claims as enshrined under Section 20 of the Act, 1956 the proceedings need to be initiated under Section 20 of the Act, 1956 and the legislature never contemplated to burden the Magistrate while exercising jurisdiction under Section 125 of Cr.P.C. to determine the claims contemplated by the Act, 1956. Therefore, the second respondent is not entitled for maintenance after attainment of her majority.

8.Accordingly, the second respondent is entitled for arrears of maintenance till her attainment of majority as awarded by the Court below. It is also made clear that the second respondent is at liberty to file a appropriate petition for maintenance as against the petitioner/father under Section 20 of the Hindu Adoptions and Maintenance Act, 1956, provided she pleads and proves that she is



unable to maintain herself, for enforcement of which right her application/suit has to be under Section 20 of the Hindu Adoptions and Maintenance Act, 1956.

9. In view of the above, this Criminal Revision Case is disposed of. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

The Judge,
Family Court,
Dindigul.

Copy to

The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.V.SAKTHIVEL, Advocate (SR-16271[F] dated 04/04/2022)

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RK(19/04/2022) 3P 5C